REMARKS

The allowance of claims 6 - 8, 14 - 19, 22 and 23 is acknowledged.

By the present amendment, independent claims 4, 6 and 12 have been amended to start the claim with "A" rather than "The" so as to correct an informality in such claims occurring during the rewriting of such claims in independent form. Additionally, by the present amendment, new claims 26 and 27 have been presented wherein claim 26 depends from claim 12 and recites features as found in claim 4, as will be discussed below, and claim 27 is an independent claim patterned after allowed claim 6 and reciting similar features in a different manner, as will be discussed below.

The rejection of claims 4, 5, 12 and 13 under 35 USC 102(e) as being unpatentable over US Patent # 6,573,882 (Takebayashi) is traversed and reconsideration and withdrawal of the rejection are respectfully requested.

As to the requirements to support a rejection under 35 USC 103, reference is made to the decision of In re Fine, 5 USPQ 2d 1596 (Fed. Cir. 1988), wherein the court pointed out that the PTO has the burden under '103 to establish a prima facie case of obviousness and can satisfy this burden only by showing some objective teaching in the prior art or that knowledge generally available to one of ordinary skill in the art would lead that individual to combine the relevant teachings of the references. As noted by the court, whether a particular combination might be "obvious to try" is not a legitimate test of patentability and obviousness cannot be established by combining the teachings of the prior art to produce the claimed invention, absent some teaching or suggestion supporting the combination. As further noted by the court, one cannot use hindsight reconstruction to pick and

choose among isolated disclosures in the prior art to deprecate the claimed invention.

Furthermore, such requirements have been clarified in the recent decision of In re Lee, 61 USPQ 2d 1430 (Fed. Cir. 2002) wherein the court in reversing an obviousness rejection indicated that deficiencies of the cited references cannot be remedied with conclusions about what is "basic knowledge" or "common knowledge". The court pointed out:

> The Examiner's conclusory statements that "the demonstration mode is just a programmable feature which can be used in many different device[s] for providing automatic introduction by adding the proper programming software" and that "another motivation would be that the automatic demonstration mode is user friendly and it functions as a tutorial" do not adequately address the issue of motivation to combine. This factual question of motivation is immaterial to patentability, and could not be resolved on subjected belief and unknown authority. It is improper, in determining whether a person of ordinary skill would have been led to this combination of references, simply to "[use] that which the inventor taught against its teacher."... Thus, the Board must not only assure that the requisite findings are made, based on evidence of record, but must also explain the reasoning by which the findings are deemed to support the agency's conclusion. (emphasis added)

In applying Takebayashi to claims 4 and 12, the Examiner points to Figures 3 and 4 of this patent contending that the switching means in Figure 4 corresponds to a controlling circuit for controlling light-emission luminance of the light source and as shown in Fig. 3, lighting periods t1, t2 and t3 in respective sub-fields SF1, SF2 and SF3 were each set to have occupied 75% of an associated sub-field period in view of the effects of suppressing the blurring and color splitting in a hold-type display device. The Examiner then indicates "This value can be modified based on consideration of other factors. For example, the value can be varied for providing

different luminance of respective color picture data to adjust a chromaticity of mixed colors (col. 5, lines 11 - 20) corresponding to ... said controlling circuit controlling said time ratio of said first light-emission luminance in said one period to be 50% or smaller when said display data is a motion frame picture and to be 50% or larger when said display data is a freeze-frame picture." (emphasis added). Applicants submit that while the Examiner has utilized language as present in claim 4, Takebayashi does not disclose or teach in the sense of 35 USC 103 the recited features of claim 4 in terms of operation of the controlling circuit in a different manner when the display data is a motion-frame picture and when the display data is a freeze-frame picture.

Turning the disclosure of Takebayashi, while column 5, lines 11 - 20 indicates a value can be modified based on consideration of other factors, there is no disclosure or teaching in Takebayashi that display data of a freeze-frame picture is controlled differently from that of a motion-frame picture. In fact, applicants submit that Takebayashi is directed to the problem which occurs with a motion picture, with each of independent claims 1 and 4 of Takebayashi reciting the feature of an apparatus being operable to display a full-color motion picture. Whether or not Takebayash could be controlled in accordance with the factors as recited in claim 4, applicants submit that Takebayashi provides no disclosure or teaching thereof and the Examiner's suggestion that such factors could be provided represents a hindsight reconstruction attempt utilizing the principle of "obvious to try" which is not the standard of 35 USC 103 (see In re Fine, supra) and the utilization of what the applicant has taught against the teacher which is not proper (see In re Lee, supra). Thus, applicants submit that claim 4 and dependent claim 5 patentably distinguish

over Takebayashi in the sense of 35 USC 103 and should be considered allowable thereover.

With respect to claim 12, it is noted that this claim recites features of the controlling circuit which differ from that recited in claim 4. More particularly, claim 12 recites the features of

> "said controlling circuit outputs a signal so that a time-period of said second light-emission luminance will start immediately after a writing of said display data and a region has been terminated, said signal indicating said starting time and a time-period of said first light-emission luminance said display data being varied most in said region among respective display regions on said display panel, said respective display regions corresponding to said plurality of light-sources" (emphasis added).

Applicants note that the Examiner has not indicated that such aforementioned features are present in Takebayashi, and applicants submit that there is no disclosure or teaching in Takebayashi of such claimed features and it cannot be considered obvious in the sense of 35 USC 103 to provide such claimed features based upon the disclosure in Takebayashi. Thus, applicants submit that claim 12 also patentably distinguishes over Takebayashi in the sense of 35 USC 103 and should be considered allowable thereover.

By the present amendment, a new dependent claim 26 has been presented which depends from claim 12 and recites the features of claim 4, as discussed above concerning the different operation for a motion-frame picture and a freeze-frame picture which is not disclosed or taught by Takebayashi. Thus, applicants submit that new claim 26, when considered with parent claim 12 as well as dependent claim 13 patentably distinguish over Takebayashi in the sense of 35 USC 103 and should be considered allowable at this time.

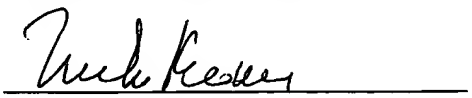
With respect to new independent claim 27, this claim has been patterned after allowed claim 6 wherein the controlling circuit is recited to include a data storing unit for storing the display data by the amount of at least one frame, a data comparing unit for comparing corresponding pixels between the display data stored in the data storing unit and the display data to be inputted, and a pulse controlling unit for outputting the signal in correspondence with a comparison result by the data comparing unit, the signal controlling the time ratio of the 1st light-emission luminance in the one period. Thus, it is apparent that the comparison result of the data comparing unit is a comparison between the data of the frame which is stored and which precedes the current data to be inputted with the comparison result being a difference therebetween which controls the time ratio of the first light emission luminance and that of the second light-emission luminance during the one period, which features are now recited in such a manner in claim 27 and which features have been recognized by the Examiner as patentably distinguishing over the cited art. Therefore, applicants submit that claim 27 should also be in condition for allowance at this time.

In view of the above amendments and remarks, applicants submit that all claims present in this application should now be in condition for allowance and issuance of an action of a favorable nature is courteously solicited.

To the extent necessary, applicant's petition for an extension of time under 37 CFR 1.136. Please charge any shortage in the fees due in connection with the filing

of this paper, including extension of time fees, to Deposit Account No. 01-2135 (500.40285X00) and please credit any excess fees to such deposit account.

Respectfully submitted,



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